

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, April 19, 2000, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Russ Bayer, Jon Carlson, Gerry Krieser, Patte Newman, Greg Schwinn, Cecil Steward and Tommy Taylor (Steve Duvall and Linda Hunter absent); John Bradley, Ed Zimmer, Mike DeKalb, Steve Henrichsen, Rick Houck, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair, Russ Bayer, called the meeting to order and introduced and welcomed the new member of the Commission, Jon Carlson, who has been appointed to fulfill the unexpired term of Barbara Hopkins.

Bayer then requested a motion approving the minutes for the meeting held April 5, 2000. Motion to approve made by Newman, seconded by Schwinn and carried 6-1: Bayer, Carlson, Krieser, Newman, Schwinn and Taylor voting 'yes'; Steward abstaining; Duvall and Hunter absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

April 19, 2000

Members present: Bayer, Carlson, Krieser, Newman, Schwinn, Steward and Taylor; Duvall and Hunter absent.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 3250; CHANGE OF ZONE NO. 3251; FINAL PLAT NO. 00003, CYRILLA COURT 2ND ADDITION; FINAL PLAT NO. 00005, LEE'S PLACE; and FINAL PLAT NO. 99034, HIGH POINTE NORTH COMMERCIAL PARK ADDITION.**

Jean Walker, on behalf of the Planning Department, requested a motion to defer Change of Zone No. 3251, a text amendment to Title 27 of the Lincoln Municipal Code regarding a map reference in the Comprehensive Plan, until May 3, 2000. This text amendment was on the Consent Agenda; however, it was not properly advertised.

Steward moved to defer until May 3, 2000, seconded by Krieser and carried 7-0: Bayer, Carlson, Krieser, Newman, Schwinn, Steward and Taylor voting 'yes'; Duvall and Hunter absent.

There was no public testimony on this application.

Schwinn moved to approve the remaining Consent Agenda, seconded by Steward and carried 7-0: Bayer, Carlson, Krieser, Newman, Schwinn, Steward and Taylor voting 'yes'; Duvall and Hunter absent.

Note: This is final action on the Cyrilla Court 2nd Addition Final Plat, Lee's Place Final Plat and High Pointe North Commercial Park Addition Final Plat, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

CHANGE OF ZONE NO. HP68
TO DESIGNATE THE LINCOLN
WOMEN'S CLUB BUILDING AS A
LANDMARK, LOCATED AT 407 SO. 14TH STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 19, 2000

Members present: Taylor, Krieser, Schwinn, Steward, Carlson, Newman and Bayer; Hunter and Duvall absent.

Planning staff recommendation: Approval

Proponents

1. Ed Zimmer of the Planning Department showed slides of the proposed landmark. This building was built in 1955 and is the youngest building seen as a landmark application. Zimmer advised that this application has been reviewed and recommended by the Historic Preservation Commission. Chapter 27.57 of the Lincoln Municipal Code discusses landmarks. There are three areas in which landmarks might be declared: 1) associated with significant persons or events in the community's history; 2) architectural landmarks designated because of the style and architecture; and 3) archeology. The Historic Preservation Commission recommends the Lincoln Women's Club for its association with significant persons or events. While this is a very characteristic work of architecture of the mid 1950's, we are not as experienced in showing those buildings yet. This was built and designed for the Women's Club but it is also the Club's 106 year old history, as well as the work of architecture. The building at 407 So. 14th was designed by Schaumberg and Freeman. It is limestone, salmon brick with characteristic, simple

geometric forms of the international style. The building has exceptional degree of integrity and interior work. They are currently trying to build on the strengths of the 50's design of the building on the interior as well as the exterior, although the landmark designation only applies to the exterior.

Kathy Colwell prepared this landmark application and did a very good job. It has an important setting with its position one block from the Capitol. With its setback, lawn and landscape it is a spot of relief in that much more developed setting.

This would be Lincoln's newest and youngest landmark.

1. Muffy Fisher Vrana, 3260 Van Dorn, testified in support. She is beginning her third year as president of Lincoln Woman's Club and she has been a member since 1982. During 17 years as a member, she has watched the club work unceasingly to keep the clubhouse. It is the Women's Club imperative that the integrity of the building and spirit of women who built it be maintained at all cost. The Club has recently voted to renovate, repaint and refurbish the clubhouse in keeping with the 1950's architectural style. In July, the Women's Club passed a motion to give preference to clubs for and by women when considering people requesting to use the facilities. The interior has been painted in 1950's style. Two weeks ago, a major piece of publicity appeared in the Neighborhood Extra about the club and the clubhouse. They are continuing this 106-year-old tradition. Our dedication to this 1950's building as a 1950's building is unswerving. The Board of Directors and Board of Trustees responsible for the building are unswerving, also. The Lincoln Women's Club consists of 118 members and seeks and welcomes the landmark designation.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 19, 2000

Carlson moved approval, seconded by Krieser and carried 7-0: Taylor, Krieser, Schwinn, Steward, Carlson, Newman and Bayer voting 'yes'; Hunter and Duvall absent.

SPECIAL PERMIT NO. 494E
TO AMEND THE HARBOUR WEST MEADOWS
COMMUNITY UNIT PLAN TO EXPAND
THE MOBILE HOME PARK TO INCLUDE 10 NEW SITES,
ON PROPERTY GENERALLY LOCATED
AT S.W. 11TH STREET AND WEST PEACH STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 19, 2000

Members present: Taylor, Krieser, Schwinn, Steward, Carlson, Newman and Bayer; Hunter and Duvall absent.

Planning staff recommendation: Conditional approval.

Proponents

1. **J.D. Burt of Design Associates**, 1609 N Street, presented the application and submitted additional information in writing. He stated that this application goes back to an application that was filed in December and approved by Planning Commission on January 12, 2000 (Special Permit No. 494D); however, because of certain staff conditions and the setback requirements to meet those staff conditions, he has submitted this application.

The previous application included extension of S.W. 11th to a T intersection with 9 units at the north end of the newly acquired parcel. The conditions of approval for that site plan required extending S.W. 11th to the north limits of the plat; or extend Last Road to South Street; or provide a new connection from Gordon Drive to South Street. At that point in time, the applicant contested this condition but reviewed it internally to see if they could meet the conditions. The applicant filed an appeal to this condition of approval (Condition #1.1.1 of Special Permit No. 494D). During the additional review time, the applicant ended up with an alternative layout for this proposed expansion to satisfy Condition #1.1.1 of Special Permit No. 494D and is now showing the extension of S.W. 11th to the north limits of the plat with Special Permit No. 494E. Special Permit No. 494E also requests waivers of landscaping along the north and west sides because of a drainage ditch. The roadway alignment requires additional waivers to the setback requirements; however, the applicant believes this satisfies Condition #1.1.1 previously required in Special Permit No. 494D.

However, Burt noted that Condition #1.1.1 of Special Permit No. 494E on today's agenda is slightly different than the first time it was reviewed. Now the staff is asking the applicant to, "...extend Last Road to West South Street; or provide a new connection from Gordon Drive to West South Street and cul-de-sac S.W. 11th Street at its northern limit." Burt contended that Special Permit No. 494E is nothing more than a revision to meet the conditions of the December submittal. Now, we have a change in position from the staff. Burt believes they have met staff's recommendation and the Planning Commission approval to either extend S.W. 11th or provide extension of South Street.

With regard to Condition #1.1.10, which requires a surveyor's verification that there is a minimum of 20' between the existing mobile home units, Burt stated that each and every mobile home is required to have a building permit. An official from Building & Safety is on-site with the manager when they set these modular homes as part of the building permit process. He believes they have already met the building condition requirements.

Burt proposed amendments to the conditions of approval:

- #1.1.1 To the satisfaction of the Public Works and Utilities Department, either 1) extend S.W. 11th Street to the north limits of the plat; 2) extend Last Road to South Street; or 3) provide a new connection from Gordon Drive to South Street.
- #1.1.3 A street tree plan that meets design standards.
- #1.1.10 Delete
- Add #5.3 Landscaping along the north and west limits of the application.

Carlson asked Burt to speak to the waiver of the landscaping requirement. Burt explained that there is a drainageway overgrown by the tree mass. They will be elevating and the landscaping would be in a slide slope and hidden by the existing trees already located in the drainageway.

There was no testimony in opposition.

Carlson asked staff to speak to the request to amend Condition #1.1.1 and why there has been a change in the staff recommendation. Rick Houck of Planning staff stated that he did not do the staff report on Special Permit 494D. As far as the staff report for this application, there are references to some additional facts discovered during the review of this amendment. The State Department of Roads has no controlled access onto South Street and they do not care if another roadway is put into South Street. The land to the north is under ownership by a church and their plans for that ground are not to connect S.W. 11th through to the north. There is a total of 77 units in this mobile home park CUP. That is really reaching a maximum number and extends past a maximum number that should be allowed on a dead-end street. The Fire Dept. has a serious concern relative to emergency access into this area. The firefighters believe another access is needed. The extension of N.W. 11th would provide another access when the land to the north develops, but we have no indication now when that land will be developed. The health, safety and welfare of the community and this development is foremost in the staff review of this project. Mobile homes have a tendency to burn easily and it seems as though they are targets for tornadoes. Without quick emergency access into that area, the Fire Dept. is concerned. This condition was amended after receiving additional information from Public Works and the Fire Department. When Mr. Burt resubmitted the plan for 494D, staff began

the discussion with the Dept. of Roads about access onto South Street and the extension of Last Road.

John Bradley of Planning Department advised that the applicant's resubmittal was on March 23rd; the request from the Fire Dept. to extend Last Road to South Street was sent March 30th; on April 6th, the Planning Department received Public Works' comments advising that the Fire Dept. wanted the extension and the Dept. of Roads had no desire to be involved with the road connections.

But, Steward noted that in December or January when this was reviewed by the Planning Commission, he recalled that there was a fairly lengthy discussion about the T configuration of S.W. 11th Street, and at that time the Fire Dept. did not have a problem with that condition. Houck concurred that to be true. When review on this project was started, the Fire Dept. came back with a different opinion and felt emergency access was important. Steward believes emergency access became a moot point because the applicant was instructed to go back and work out a connection out of the property on S.W. 11th for future extension. Steward thought this was the case in any other recommendation—the staff does not know when the property is going to be developed or when the owner is going to accept that connection. Steward believes this developer is doing what was instructed and then the rules of the game changed. Houck acknowledged, but the staff's research and requests of the Fire Department indicated that they had re-evaluated the situation and wanted to gain another access point.

Response by the Applicant

Burt stated that if the applicant could have satisfied the setback requirements with the second plan without the need of waivers, they wouldn't even be here today.

Bayer inquired as to the ramifications of today's conditions of approval. You would have to extend Last Road to W. South Street. Bayer thinks they would have to convert to a cul-de-sac which further modifies the plan and they would likely be back to the beginning of the process for additional waivers. Burt believes they would have to put in the cul-de-sac and they would lose three lots.

Carlson wondered whether returning to the January design would satisfy the cul-de-sac intent. Burt stated that there is a one-unit difference because they were first looking at double-wide 52' units. They are adding one single wide lot with this proposal.

Schwinn asked whether South Street is improved to urban standards. Buff Baker of Public Works stated that South Street is a rural design at this point. Schwinn wanted to know what the connection to South Street would require of the developer. Baker stated that it would be done as a driveway design with a simple curbcut permit. Baker clarified that this is a cul-de-sac as designed. It is not necessarily a concrete bulb. What they have now is a cul-de-sac, one way in and one way out. Public Works would approve the cul-de-sac as

it stands if they put the connection to South Street. Public Works did have conversation with the property owners of the church. There is one residential lot between the church property and this addition. With the church's master plan they had no connection to connect anything south across the private property in the future. This information was not available during the review of Special Permit 494D.

Bayer wondered how a church can tell staff they will not put an extension in. Baker explained that the church has one single residential lot with two other street accesses. Dennis Bartels of Public Works also explained that the City cannot ask for streets unless they don't have frontage. The City does not get dedication of streets through the building permit process. The only way to get a street extension is through the platting process.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 19, 2000

Steward moved approval, with conditions, with the amendments as requested by the applicant, except that Condition #1.1.1 shall read: To the satisfaction of the Public Works and Utilities Department, extend Last Road to South Street, seconded by Schwinn.

Schwinn is not particularly pleased with the fact that a developer had to deal with a change in our requirements between January and today, and he is somewhat confused about the extension of streets. His biggest concern, however, is that modular units are built to a HUD code and not a city code and they are not as safe. He shares the concerns of the Fire Dept. and he believes they should have another access.

Steward is proposing this strategy to resolve a justifiable concern for safety with the connection to South Street, but also to leave the option open for the extension of S.W. 11th Street in the future. If that extension is necessary for further safety then the adjacent property owners pick up some responsibility as well.

Bayer supports this extension with the idea that they are still allowed to do the 77 units and all they have to do is a driveway to South Street.

Motion for approval, with conditions, as amended, carried 7-0: Taylor, Krieser, Schwinn, Steward, Carlson, Newman and Bayer voting 'yes'; Hunter and Duvall absent.

SPECIAL PERMIT NO. 1834
FOR A GARDEN CENTER AND NURSERY
ON PROPERTY GENERALLY LOCATED
AT 12700 HOLDREGE STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 19, 2000

Members present: Taylor, Krieser, Schwinn, Steward, Carlson, Newman and Bayer; Hunter and Duvall absent.

Planning staff recommendation: Conditional approval.

Proponents

1. **Brian Carstens** presented the application. This is a special permit for a garden center and nursery at 127th & Holdrege on a 20-acre parcel. There is currently a 15,000 sq. ft. indoor riding arena that will be converted into nursery type uses. They have been working with the adjacent neighbor to the west and are providing some additional screening, which is above and beyond the conditions required by the staff. Carstens submitted a letter from the neighbor directly across the street to the south in support.

Carstens requested to amend Condition #2 to show the hours of operation to be 7:30 a.m. to 6:00 p.m., Monday through Saturday, with no hours of business on Sunday.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 19, 2000

Schwinn moved approval, with the amendment to Condition #2 as requested by the applicant, seconded by Krieser and carried 7-0: Taylor, Krieser, Schwinn, Steward, Carlson, Newman and Bayer voting 'yes'; Hunter and Duvall absent.

Note: This is final action by the Planning Commission, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

CHANGE OF ZONE NO. 3241
FROM AG AGRICULTURAL TO
AGR AGRICULTURAL RESIDENTIAL
ON PROPERTY GENERALLY LOCATED
AT NO. 84TH STREET AND WAVERLY ROAD.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 19, 2000

Members present: Taylor, Krieser, Schwinn, Steward, Carlson, Newman and Bayer; Hunter and Duvall absent.

Proponents

1. Mark Hunzeker appeared on behalf of **Pearle Finigan**, the owner and developer of this property. It had been suggested that he consider clustering the acreages on this property and preserve some of the open space. That suggestion was taken seriously and Hunzeker submitted a site plan substantially different than previously submitted, showing open space in the draw areas. This plan represents at least 50 acres of the quarter section being reserved for open space. On the long narrow lots, the plan would be for restrictive covenants that would provide that the back portions of those lots be reserved as open space and not built upon. The reason for the larger lots is that Finigan has had people interested in having full 3-acre lots, but he recognizes that the ability to walk through those areas and utilize the draws and trees for recreational purposes is valuable so they will be reserving those areas as nonbuildable in the covenants.

Hunzeker submitted the Groundwater Report by Vincent H. Dreeszen, indicating that there is plenty of adequate potable water on site. The water is relatively hard and there is a little bit of iron and manganese which probably needs to be treated, but the other chemical constituents are relatively low and there is plenty of good potable water supply for this project.

This is an area where Mr. Finigan has had very good recent success in selling out a similar subdivision immediately across the intersection. This is on a paved road running into Waverly. It is relatively unique in that the northern part of the county is more difficult to find good water.

The density restrictions do no change.

Carlson inquired about quantity of water. Hunzeker stated that there have been no reports of difficulty in obtaining water supply. There are some nearby irrigation wells, but there are no reports of well interference and none known to have been encountered. The irrigation well across the road to the east pumps 750 gal/min. when irrigating crops in the summertime. There have been no reports of any drawdown problems. Hunzeker is confident that there is plenty of adequate water. The total saturated thickness is expected to be 80 to 100 ft.

Steward inquired how, if in any way, the clustering changes the sanitary sewer. Hunzeker indicated that the clustering would mean that there would be a community sewer system, likely a lagoon. The system hasn't been designed yet but he pointed to the area of the site where the lagoons would be located--probably two. The flow would be from the north onto this property and then on to farmland across the road. The lagoon is not to be located in the waterway itself.

Bayer has a concern about changing the zoning without the plat on file. Why shouldn't we hold this for the plat? Hunzeker responded that the change of zone was brought forward alone because when you get into a plat you begin to spend a lot of money. He will be bringing forward a preliminary plat once the change of zone has been approved.

Opposition

1. **Alan Retzlaff**, general manager of **Retzlaff Farms, Incorporated**, testified in opposition. They own the half section across the road with an irrigation well. He is concerned about the amount of water runoff from a project of this size, i.e. the overall amount of water forced onto and through his property. He is also concerned about the water quality and quantity. He owns four wells on the other side of the road and not one pumps over 300 gal/min. He appreciates that the water issue was researched.

Carlson asked staff to speak to the different flow rates. Mike DeKalb of Planning staff has not had the opportunity to review the water report or the sketch that was presented, thus he has not had the opportunity to present the water information to the Health Dept. for comment.

Response by the Applicant

Hunzeker believes the opposition refers to two different things—one being surface water runoff, which is governed by all of the stormwater detention requirements of the subdivision ordinance. This subdivision should not increase the rate of runoff onto any downstream property. It is part of the detention requirements that they not allow runoff at a rate greater than what is presently on the property as farmland. As to the pumping rates, a table is attached to Mr. Dreeszen's report which references surrounding wells and pumping yield in gallons per minute. In the sections around this area, i.e. Section 11, there are yields of 500, 300, 600, 450, 700 and 500 gal/per minute for irrigation wells. He believes Dreeszen obtained his information from the NRD. The amount of water used for single family homes in this area is going to be very modest in comparison to the irrigation wells.

Since staff has not had an opportunity to review the water report, Bayer wondered whether the applicant would be opposed to a delay. Hunzeker's response was that this is an issue that is readdressed at the preliminary plat level. Every time we do a plat, we are required to provide the information with respect to availability of water and adequacy of sewage disposal, etc. He believes there is plenty of opportunity to review that again as the plat comes through. It is not an area in which the staff has traditionally expressed any level of

expertise. They have deferred to Dreeszen and the Health Dept. people almost exclusively. He does not recollect where Planning staff did any substantive review of the water information. The four wells across the road yield 500, 700, 450 and 600 gal/min.

Bayer asked when the plat would come forward. Hunzeker stated that they would submit the plat as soon as the change of zone is approved by the City Council, which would be in about three weeks.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 19, 2000

Steward moved to deny the change of zone, seconded by Krieser.

Steward stated that he will vote to deny partly on the basis of his sword of consistency. Converting AG zoning to AGR without a more definitive comprehensive plan on the county circumstance, especially north of the City, seems to be a very critical issue in this matter and we've denied a golf course project not too far from here to the north of the City not so long ago on the basis of evidence of limited water supply as well as quality of water. He believes this is not a matter of urgency. We need to give the staff a better opportunity to plan for the acreages that may develop along the north quadrant of the City.

Bayer stated that the only reason he is not going to support the motion is because he would rather defer this to see the plat with it.

Motion to deny carried 5-2: Taylor, Krieser, Steward, Carlson and Newman voting 'yes'; Schwinn and Bayer voting 'no'; Hunter and Duvall absent.

SPECIAL PERMIT NO. 1830

MANDARIN COURT COMMUNITY UNIT PLAN,

ON PROPERTY GENERALLY LOCATED

AT MANDARIN CIRCLE, NEAR SOUTH 84TH STREET

AND PIONEERS BLVD.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 19, 2000

Members present: Taylor, Krieser, Schwinn, Steward, Carlson, Newman and Bayer; Hunter and Duvall absent.

Bayer advised that the public hearing has been closed; however, the Commission does have the right to ask questions of individuals or could move to reopen public hearing or act on the application. The Commission received a revised site plan and two letters from neighbors from the applicant today. Bayer does not believe the site plan is changed so significantly that the Commission couldn't take action approving three dwelling units as opposed to four, and it would then go on to the City Council for another public hearing.

Newman wants to know whether this is acceptable to the neighbors. Bayer asked the Law Department if the neighbors in attendance could be asked to speak. Rick Peo of the City Law Department advised that if the Commission is asking questions, it is public testimony or new information. He believes the Commission would be treading on thin ice by allowing the public to speak since the public hearing has been closed and it defeats the public process. Peo stated that after looking at the revised plan more thoroughly, it is in effect a new site plan. If the Commission wants to approve three units, there is not a staff report listing any conditions of approval based on three units. He does not know what would be sent to City Council without the conditions from staff for three units versus four units. It may be better to look at this as an amended application that really needs to have public hearing. Based on the information presented, it appears the applicant is attempting to amend his application and is no longer going forward with four units, and Peo would advise reopening the public hearing.

Newman made a motion to reopen public hearing in two weeks on May 3, 2000, seconded by Taylor and carried 7-0: Taylor, Krieser, Schwinn, Steward, Carlson, Newman and Bayer voting 'yes'; Hunter and Duvall absent. The revised application will be advertised and notification letters will be mailed to the property owners.

There being no further business, the meeting was adjourned at 2:15 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on May 3, 2000.